DETAILED ACTION

Response to Amendment

1. The Applicants' amendment, filed 7 August 2009, has been received, entered into the record, and considered.

2. As a result of the amendment, claims 4 and 7 have been amended. Claim 2 has been previously canceled. Claims 1 and 3-12 remain pending in the application.

Priority

3. The Applicants' claim to foreign priority as a 371 application of PCT/IB/03/03660, filed 18 August 2003, which depends for priority upon European Patent Application EP-02078955.8, filed 24 September 2002, is acknowledged.

The priority documents have been received and entered into the record.

Claim Objections

4. In view of the Applicants' amendment to claims 4 and 7, the pending claim objections are withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1, 3 and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Billmaier** (U.S. Patent 6,630,963) in view of **Errico et al.** (U.S. Patent 7,055,168).

9. Regarding claim 1, **Billmaier** teaches a system for operating with different types of media content substantially as claimed, the system being arranged to enable a user to use a first content of a first type (see disclosure that a user watches television content, col. 1, lines 15-36 et seq.), characterized in that the system comprises:

a) identifying means for identifying that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that a user selects a secondary audio program to replace the primary audio program associated with a television transmission, col. 9, lines 1-10 et seq.), said second content being unrelated with the first content (see disclosure that the secondary audio content is transmitted via the Internet, col. 2, lines 44-51 et seq.; the examiner notes that Applicants' specification discloses that the term 'unrelated' should be interpreted as

meaning that the system has no data indicating the relation between the contents, page 3, lines 21-24; although the television and secondary audio content might both be broadcasting the same event, they are independently produced and broadcast, and there is no reference in either data stream to the other, which means that for the purposes of the claimed invention, the video and audio broadcasts are unrelated; the fact that the buffering period of the video stream must be manually calibrated in order to match the audio stream provides further evidence that the streams are unrelated);

b) associating means for associating said second content with the first content (see disclosure that the user selects a desired secondary audio program to replace the primary audio program associated with the television transmission, col. 9, lines 1-10 et seq.); and

c) storage means arranged to store meta-data comprising information pertaining to said associated first and second content (see disclosure that the storage device may store, *inter alia*, electronic programming guide (EPG) data, col. 5, lines 10-15 et seq.; see also disclosure of synchronization data associated with media content, col. 7, lines 10-43)

Billmaier does not explicitly teach a system for operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user

in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

10. Regarding claim 11, **Billmaier** teaches a method of operating with different types of media content substantially as claimed, the method comprising the step of identifying a user's usage of a first content of a first type (see disclosure that a user watches television content, col. 1, lines 15-36 et seq.), characterized in that the method further comprises a step of identifying that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that a user selects a secondary audio program to replace the primary audio program associated with a television transmission, col. 9, lines 1-10 et seq.), said second content being unrelated with the first content (see disclosure that the secondary audio content is transmitted via the Internet, col. 2, lines 44-51 et seq.; the examiner notes that Applicants' specification discloses that the term 'unrelated' should be interpreted as meaning that the system has no data indicating the relation between the contents, page 3, lines 21-24; although the television and secondary audio content might both be broadcasting the same event, they are independently produced and broadcast, and there is no reference in either data stream to the other, which means that for the

purposes of the claimed invention, the video and audio broadcasts are unrelated; the fact that the buffering period of the video stream must be manually calibrated in order to match the audio stream provides further evidence that the streams are unrelated), and a step of associating said second content with the first content (see disclosure that the user selects a desired secondary audio program to replace the primary audio program associated with the television transmission, col. 9, lines 1-10 et seq.).

Billmaier does not explicitly teach a method of operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from

different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

11. Regarding claim 12, **Billmaier** teaches a computer-readable medium containing a computer program product substantially as claimed, enabling a programmable device, when executing said computer program product, to:

a) identify a user's usage of a first content of a first type (see disclosure that a user watches television content, col. 1, lines 15-36 et seq.);

b) identifying that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that a user selects a secondary audio program to replace the primary audio program associated with a television transmission, col. 9, lines 1-10 et seq.), said

second content being unrelated with the first content (see disclosure that the secondary audio content is transmitted via the Internet, col. 2, lines 44-51 et seq.; the examiner notes that Applicants' specification discloses that the term 'unrelated' should be interpreted as meaning that the system has no data indicating the relation between the contents, page 3, lines 21-24; although the television and secondary audio content might both be broadcasting the same event, they are independently produced and broadcast, and there is no reference in either data stream to the other, which means that for the purposes of the claimed invention, the video and audio broadcasts are unrelated; the fact that the buffering period of the video stream must be manually calibrated in order to match the audio stream provides further evidence that the streams are unrelated); and

c) associating said second content with the first content (see disclosure that the user selects a desired secondary audio program to replace the primary audio program associated with the television transmission, col. 9, lines 1-10 et seq.).

Billmaier does not explicitly teach a computer-readable medium containing a computer program product for operating with different types of media content wherein

the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

12. Regarding claim 3, **Billmaier** additionally teaches a system further comprising selection means arranged to select the content (see disclosure that the user selects a desired secondary audio program to replace the primary audio program associated with the television transmission, col. 9, lines 1-10 et seq.).

13. Regarding claim 7, **Billmaier** additionally teaches a system wherein said selection means are further arranged to user-operably modify said meta-data (see disclosure that the buffering period for a given media content is user-adjustable, col. 7, lines 26-27).

14. Regarding claim 8, **Billmaier** additionally teaches a system wherein said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content, and wherein said associating means is arranged to associate said third and first content (see disclosure of the association of additional content or a variety of different types, col. 9, lines 29-50), the system further comprising rating means arranged to rate said association of the first content with the

second content and/or with the third content (see disclosure of the explicit selection of secondary audio content, thus rating the association positively, col. 8, lines 26-30).

15. Regarding claim 9, **Billmaier** additionally teaches a system comprising a plurality of devices, each device including output means arranged to output at least one type of the media content, and/or input means arranged to obtain at least one type of the media content (see disclosure of a system comprising a plurality of set top boxes, television, personal computer, advanced television set, or another type of client terminal, col. 3, lines 18-25, as well as a head-end centrally-located facility where television programs are received from local cable television, satellite downlink or other sources and routing video streams and other data to and from the various set top box devices serviced thereby, col. 3, lines 48-67).

16. Regarding claim 10, **Billmaier** additionally teaches a system wherein said first and second content correspond to video and audio content (see disclosure that a secondary audio program is selected to replace the primary audio program associated with the television [video] transmission, col. 9, lines 1-5).

17. Claims 1, 3, 4 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bahn** (U.S. Patent 7,162,728) in view of **Errico et al.** (U.S. Patent 7,055,168).

18. Regarding claim 1, **Bahn** teaches a system for operating with different types of media content substantially as claimed, the system being arranged to enable a user to use a first content of a first type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), characterized in that the system comprises:

a) identifying means for identifying that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), said second content being unrelated with the first content (see disclosure that, for example, the user can elect to listen to jazz style music while viewing content on a shopping channel accessed over interactive television, col. 2, lines 33-35);

b) associating means for associating said second content with the first content (see disclosure that once the user's selections have been made, the selections can be stored as user preferences in an audio library collection

and then applied during subsequent viewing of the shopping channel, col. 6, lines 40-43 et seq.); and

c) storage means arranged to store meta-data comprising information pertaining to said associated first and second content (see disclosure that the storage device may store, *inter alia*, a variety of audio content which can be arranged by style of music, individual song, album, artist, or by other classifications, col. 6, lines 1-7; see also disclosure that the user may upload audio and/or video content, col. 7, lines 15-51).

Bahn does not explicitly teach a system for operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one

or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

19. Regarding claim 11, **Bahn** teaches a method of operating with different types of media content substantially as claimed, the method comprising the step of identifying a user's usage of a first content of a first type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), characterized in that the method further comprises a step of identifying that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that the system allows a user to customize audio content on

interactive television, col. 2, lines 8-10 et seq.), said second content being unrelated with the first content (see disclosure that, for example, the user can elect to listen to jazz style music while viewing content on a shopping channel accessed over interactive television, col. 2, lines 33-35), and a step of associating said second content with the first content (see disclosure that once the user's selections have been made, the selections can be stored as user preferences in an audio library collection and then applied during subsequent viewing of the shopping channel, col. 6, lines 40-43 et seq.).

Bahn does not explicitly teach a method of operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-

9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

20. Regarding claim 12, **Bahn** additionally teaches a computer-readable medium containing a computer program product substantially as claimed, enabling a programmable device, when executing said computer program product, to:

a) identify a user's usage of a first content of a first type (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.);

b) identify that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that the system

allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.), said second content being unrelated with the first content (see disclosure that, for example, the user can elect to listen to jazz style music while viewing content on a shopping channel accessed over interactive television, col. 2, lines 33-35); and

c) associate said second content with the first content (see disclosure that once the user's selections have been made, the selections can be stored as user preferences in an audio library collection and then applied during subsequent viewing of the shopping channel, col. 6, lines 40-43 et seq.).

Bahn does not explicitly teach a computer-readable medium containing a computer program product for operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also

disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

21. Regarding claim 3, **Bahn** additionally teaches a system further comprising selection means arranged to select the content (see disclosure that the user may choose the audio content to be rendered, col. 2, lines 31-33 et seq.).

22. Regarding claim 4, **Bahn** additionally teaches a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content (see disclosure that after changing the default audio settings while viewing a shopping channel, the user's selections can be stored as user preferences in an audio library collection and then applied during subsequent viewing of the shopping channel, col. 6, lines 19-51 et seq.).

23. Regarding claim 6, **Bahn** additionally teaches a system further comprising output means arranged to simultaneously output said associated first and second content (see disclosure that the system allows the simultaneous rendering of jazz style music while the user views content on a shopping channel, col. 2, lines 33-36).

24. Regarding claim 7, **Bahn** additionally teaches a system wherein said selection means are further arranged to user-operably modify said meta-data (see disclosure that the user may upload audio and/or video content, col. 7, lines 15-51; see also disclosure that the system performs explicit profiling, col. 7, lines 52-67).

25. Regarding claim 8, **Bahn** additionally teaches a system wherein said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content, and wherein said associating means is arranged to associate said third and first content (see disclosure of the association of additional content or a variety of different types, col. 3, lines 3-14), the system further comprising rating means arranged to rate said association of the first content with the second content and/or with the third content (see disclosure of both explicit and implicit profiling of the user, col. 7, line 52 through col. 8, line 15).

26. Regarding claim 9, **Bahn** additionally teaches a system comprising a plurality of devices, each device including output means arranged to output at least one type of the media content, and/or input means arranged to obtain at least one type of the media content (see disclosure of a variety of devices, col. 5, lines 4-31 et seq.).

27. Regarding claim 10, **Bahn** additionally teaches a system wherein said first and second content correspond to video and audio content (see disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.).

28. Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ichino** (U.S. Patent 5,440,351) in view of **Errico et al.** (U.S. Patent 7,055,168).

29. Regarding claim 1, **Ichino** teaches a system for operating with different types of media content as claimed, the system being arranged to enable a user to use a first content of a first type (see disclosure that the system allows a user to render audio content from a specific radio station concurrently with television content, col. 7, lines 49-53 et seq.), characterized in that the system comprises:

a) identifying means for identifying that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that the system allows a user to select the radio frequency to be rendered with television content, col. 8, lines 20-24 et seq.), said second content being unrelated with the first content (see disclosure that the system allows a user to select *any* radio frequency to be rendered with television content, col. 3, lines 31-35 et seq.); and

b) associating means for associating said second content with the first content (see disclosure that the system includes programmable memory with the capability to store a single television channel AM radio frequency association or a number of such associations, col. 8, lines 2-5 et seq.).

Bahn does not explicitly teach a system for operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

Ichino furthermore does not explicitly teach a system further comprising storage means arranged to store meta-data comprising information pertaining to said associated first and second content.

Errico et al., however, teaches the storage of meta-data comprising information pertaining to said associated first and second content (see disclosure of the storage of the Program Description Scheme, beginning at col. 15, line 28; see also disclosure of the storage of User Description Scheme, beginning at col. 22, line 27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to store meta-data comprising information pertaining to said associated first

and second content, since without storing such meta-data, it would not be possible for the system to render multimedia to a user consistent with said user's preferences.

30. Regarding claim 11, **Ichino** teaches a method of operating with different types of media content, the method comprising the step of identifying a user's usage of a first content of a first type (see disclosure that the system allows a user to render audio content from a specific radio station concurrently with television content, col. 7, lines 49-53 et seq.), characterized in that the method further comprises a step of identifying that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that the system allows a user to select the radio frequency to be rendered with television content, col. 8, lines 20-24 et seq.), said second content being unrelated with the first content (see disclosure that the system allows a user to select *any* radio frequency to be rendered with television content, col. 3, lines 31-35 et seq.), and a step of associating said second content with the first content (see disclosure that the system includes programmable memory with the capability to store a single television channel AM radio frequency association or a number of such associations, col. 8, lines 2-5 et seq.).

Bahn does not explicitly teach a method of operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user

in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

31. Regarding claim 12, **Ichino** additionally teaches a computer-readable medium containing a computer program product substantially as claimed, enabling a programmable device, when executing said computer program product, to:

a) identify a user's usage of a first content of a first type (see disclosure that the system allows a user to render audio content from a specific radio station concurrently with television content, col. 7, lines 49-53 et seq.);

b) identify that the user concurrently uses a second content of a second type when using said first content of the first type (see disclosure that the system allows a user to select the radio frequency to be rendered with television content, col. 8, lines 20-24 et seq.), said second content being unrelated with the first content (see disclosure that the system allows a user to select *any* radio frequency to be rendered with television content, col. 3, lines 31-35 et seq.); and

c) associate said second content with the first content (see disclosure that the system includes programmable memory with the capability to store a

single television channel AM radio frequency association or a number of such associations, col. 8, lines 2-5 et seq.).

Bahn does not explicitly teach a computer-readable medium containing a computer program product for operating with different types of media content wherein the association between said first content and said second content is made on the basis of historical usage of the user.

Errico et al., however, teaches the monitoring and recording of a user's viewing and listening habits, and the rendering of desirable audio, image and/or video information in accordance with said user's historical viewing and listening habits (see col. 4, lines 25-63; see also col. 11, lines 34-45; see also col. 12, lines 25-32; see also disclosure that the management of individual programs and other data includes relationships between any one of the user, the audio, and the images in relation to one or more of a program description scheme and a user description scheme, col. 7, lines 6-9; see also disclosure that appliances that can be personalized may access content from different sources, or access multiple or different types of single media such as video, music, etc., col. 11, line 66 through col. 12, line 3 et seq.).

It would have been obvious to one of ordinary sill in the art at the time of the invention to provide personalization of a user's multimedia viewing based upon their past recorded behavior, since this would allow a system to render multimedia to a user in a manner consistent with that user's preferences, without the need for the user to manually customize the rendering each time a user accesses multimedia.

32. Regarding claim 3, **Ichino** additionally teaches a system further comprising selection means arranged to select the content (see disclosure that the user may select the frequency of the AM tuner, col. 8, lines 20-24 et seq.).

33. Regarding claim 4, **Ichino** additionally teaches a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content (see disclosure that when the TV/Radio button is pressed, the system searches memory to see if it contains an entry for a television channel corresponding to the currently-active channel, and if so, sets the AM radio tuner to the associated radio frequency, col. 9, lines 7-20).

34. Regarding claim 5, **Ichino** additionally teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means (see disclosure that duplicate associations between radio frequencies and television channels may be stored, and the viewer would be allowed to scroll through the associations in order to select the desired frequency, col. 10, lines 17-25).

35. Regarding claim 6, **Ichino** additionally teaches a system further comprising output means arranged to simultaneously output said associated first and second content (see disclosure that the selected AM radio broadcast is reproduced through the television sound system, col. 9, lines 14-20).

36. Regarding claim 7, **Errico et al.** additionally teaches a system wherein the meta-data is user-modifiable (see disclosure that the User Description Scheme, which stores a user's viewing preferences, can be updated manually by the user, col. 6, lines 42-44 et seq.).

37. Regarding claim 8, **Ichino** additionally teaches a system wherein said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content, and wherein said associating means is arranged to associate said third and first content (see disclosure of the association of duplicate television channel/radio frequency associations, col. 10, lines 17-25), the system further comprising rating means arranged to rate said association of the first content with the second content and/or with the third content (see disclosure of the explicit selection of secondary audio content by radio frequency, thus rating the association positively, col. 8, lines 20-24 et seq.).

38. Regarding claim 9, **Ichino** additionally teaches a system comprising a plurality of devices, each device including output means arranged to output at least one type of the media content, and/or input means arranged to obtain at least one type of the media content (see disclosure of both a television and a radio tuner, col. 5, lines 40-66 et seq.).

39. Regarding claim 10, **Ichino** additionally teaches a system wherein said first and second content correspond to video and audio content (see disclosure that the system

allows a user to render audio content from a specific radio station concurrently with television content, col. 7, lines 49-53 et seq.).

40. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Billmaier** (U.S. Patent 6,630,963) in view of **Errico et al.** (U.S. Patent 7,055,168) as applied to claims 1, 3 and 7-12 above, and further in view of **Bahn** (U.S. Patent 7,162,728).

41. Regarding claim 4, **Billmaier** and **Errico et al.** teach a system for operating with different types of media content substantially as claimed.

Neither **Billmaier** nor **Errico et al.** explicitly teaches a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content.

Bahn, however, teaches a system wherein said selection means are further arranged to identify the first content upon selection of the associated second content

and/or to identify the second content upon selection of the associated first content (see disclosure that after changing the default audio settings while viewing a shopping channel, the user's selections can be stored as user preferences in an audio library collection and then applied during subsequent viewing of the shopping channel, col. 6, lines 19-51 et seq.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to register a user's preferences for which media to be played concurrently with another media, and to apply said preferences to subsequent content rendering, since this would save the user the need to repeatedly select their preferred media every time content is being rendered.

42. Regarding claim 6, **Billmaier** additionally teaches a system further comprising output means arranged to simultaneously output said associated first and second content (see disclosure that the system allows the simultaneous rendering of different content received from different sources, col. 2, lines 44-57; see also col. 6, line 63 through col. 7, line 3).

43. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Billmaier** (U.S. Patent 6,630,963) in view of **Errico et al.** (U.S. Patent 7,055,168) in view of **Bahn** (U.S. Patent 7,162,728) as applied to claims 4 and 6 above, and further in view of **Kotz et al.** (U.S. Patent Application Publication 20040068552).

44. Regarding claim 5, **Billmaier**, **Errico et al.** and **Bahn** teach a system for operating with different types of media content substantially as claimed.

None of **Billmaier**, **Errico et al.** nor **Bahn** explicitly teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means.

Kotz et al., however, teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means (see disclosure that the system

provides recommendations to a user based upon the user's preferences, past selections and user location, paragraph [0010] et seq.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the user the ability to choose from a list of recommended content, since this would give the user the ability to choose from among a variety of content that has been judged to be of potential interest to the user based on their profile and past selections, thus providing access to content that the user might not have chosen explicitly, perhaps because they were not aware of the content, but would be of interest to the user.

45. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bahn** (U.S. Patent 7,162,728) in view of **Errico et al.** (U.S. Patent 7,055,168) as applied to claims 1, 3, 4 and 6-12 above, and further in view of **Kotz et al.** (U.S. Patent Application Publication 20040068552).

46. Regarding claim 5, **Bahn** and **Errico et al.** teach a system for operating with different types of media content substantially as claimed.

Neither **Bahn** nor **Errico et al.** explicitly teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means.

Kotz et al., however, teaches a system wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means (see disclosure that the system provides recommendations to a user based upon the user's preferences, past selections and user location, paragraph [0010] et seq.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the user the ability to choose from a list of recommended content, since this would give the user the ability to choose from among a variety of content that has been judged to be of potential interest to the user based on their profile and past

selections, thus providing access to content that the user might not have chosen explicitly, perhaps because they were not aware of the content, but would be of interest to the user.

Response to Arguments

47. Applicant's arguments with respect to claims 1 and 3-12 have been considered, but are not persuasive.

48. The Applicants have argued that the **Errico et al.** reference fails to teach storing a user's viewing and listening habits with regard to the concurrent use of two different types of content.

49. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

50. In this case, each of the primary references teaches the identification that a user concurrently uses a second content of a second type when using a first content of a first

type, said second content being unrelated to said first content (see **Billmaier's** disclosure that a user selects a secondary audio program to replace the primary audio program associated with a television transmission, col. 9, lines 1-10 et seq.; see also disclosure that the secondary audio content is transmitted via the Internet, col. 2, lines 44-51 et seq.; the examiner notes that Applicants' specification discloses that the term 'unrelated' should be interpreted as meaning that the system has no data indicating the relation between the contents, page 3, lines 21-24; although the television and secondary audio content might both be broadcasting the same event, they are independently produced and broadcast, and there is no reference in either data stream to the other, which means that for the purposes of the claimed invention, the video and audio broadcasts are unrelated; the fact that the buffering period of the video stream must be manually calibrated in order to match the audio stream provides further evidence that the streams are unrelated; see also **Bahn's** disclosure that the system allows a user to customize audio content on interactive television, col. 2, lines 8-10 et seq.; see also disclosure that, for example, the user can elect to listen to jazz style music while viewing content on a shopping channel accessed over interactive television, col. 2, lines 33-35; see also **Ichino's** disclosure that the system allows a user to select the radio frequency to be rendered with television content, col. 8, lines 20-24 et seq.; see also

disclosure that the system allows a user to select *any* radio frequency to be rendered with television content, col. 3, lines 31-35 et seq.).

The **Errico et al.** reference is relied upon only to teach the recording and use of information about a user's preferences regarding their viewing and listening habits.

When combined, the references teach a system that recognizes that a user uses two different media of different media types concurrently, records and maintains historic information regarding said uses, and uses that information to automatically render information to the user consistent with the user's viewing and listening preferences.

Conclusion

51. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke S. Wassum whose telephone number is 571-272-4119. The examiner can normally be reached on Monday-Friday 8:30-5:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

In addition, INFORMAL or DRAFT communications may be faxed directly to the examiner at 571-273-4119, or sent via email at luke.wassum@uspto.gov, **with a previous written authorization in accordance with the provisions of MPEP § 502.03.** Such communications must be clearly marked as INFORMAL, DRAFT or UNOFFICIAL.

Customer Service for Tech Center 2100 can be reached during regular business hours at (571) 272-2100, or fax (571) 273-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Luke S. Wassum/
Primary Examiner
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